

Flygtningenævnets baggrundsmateriale

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COI QUERY

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Title	Situation of orphaned children or children without support network, including legal framework, availability of state protection and access to support services
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COI QUERY RESPONSE – Democratic Republic of Congo

Situation of orphaned children or children without support network, including legal framework, availability of state protection and access to support services

1. Situation of orphaned children or children without support network

Information on orphaned children or children without support network in DRC was scarce among the sources consulted by EUAA within the time constraints. However, the following information may be relevant.

Orphanages for Africa, ‘an international Christian humanitarian and development organization’,¹ in an undated entry, stated that there were approximately ‘800,000 orphaned and other disadvantaged children’ in DRC.² Corroborating information could not be found among the sources consulted by EUAA within the time constraints.

The Trafficking in Persons Report published by the US Department of State (USDOS) in June 2023 noted that insecurity in Ituri province led to higher vulnerability of ‘thousands of children experiencing homelessness without support networks’.³ These children were coerced by ‘criminal elements – including armed groups and community leaders’ into sex trafficking or forced labor.⁴

In January 2023, Voice of America (VOA) Afrique noted that the number of orphans and widows increased and that their living conditions deteriorated in North Kivu province, including in the province’s capital, Goma, since the activities of the group M23 resumed in North Kivu.⁵ Deutsche Welle (DW) reported in 2022 about the situation of an orphanage located in the region of Beni where children who lost their parents due to the attacks of the Allied Democratic Forces (*Alliance des Forces Democratiques*, ADF).⁶ The person in charge of the orphanage explained the precarious situation of the children, the lack of food and reduced support from [informal translation] ‘the church and people of good will’.⁷

In October 2022 the Danish Immigration Service (DIS) published a report about the socioeconomic conditions, including information on orphanages, in Kinshasa.⁸ The report included information from an interview with an international humanitarian organisation working in DRC, which stated many orphanages were established in Kinshasa because it emerged a

¹ Orphanages for Africa, About us, Our story, n.d., [url](#)

² Orphanages for Africa, Democratic Republic of the Congo, n.d., [url](#)

³ USDOS, 2023 Trafficking in Persons Report: Democratic Republic of the Congo, 15 June 2023, [url](#)

⁴ USDOS, 2023 Trafficking in Persons Report: Democratic Republic of the Congo, 15 June 2023, [url](#)

⁵ VOA Afrique, RDC: "le nombre d'orphelins et de veuves augmente de jour en jour", 16 January 2023, [url](#)

⁶ DW, Le quotidien difficile des orphelins de Béni en RDC, 19 July 2022, [url](#)

⁷ DW, Le quotidien difficile des orphelins de Béni en RDC, 19 July 2022, [url](#)

⁸ Denmark, DIS, Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#)

lucrative manner to run them.⁹ The financial gain that orphanages found in reuniting children who were not actual orphans with their families created a situation in which ‘the actual orphanages [sic] living on the streets of Kinshasa are often ignored by the orphanages as it is not profitable for the orphanages to care for these children’.¹⁰ Additionally, the interviewed source noted that the United Nations Children's Fund (UNICEF) funded orphanages which were able to meet ‘the minimum requirements in terms of child protection’.¹¹ The same source noted that it was not easy for orphans to access orphanages in the city of Kinshasa and their conditions were ‘inadequate’ without enough ‘beds, food and staff’.¹²

Global Orphan Foundation, an organisation founded in 2007 that ‘advocates on behalf of orphaned and vulnerable children worldwide’,¹³ in an article of 2023 noted that in Kinshasa, orphanages were often small and that ‘there are rarely enough beds for the children living there, and the extreme food insecurity leaves children undernourished’.¹⁴ The same source noted that there was one caregiver, whose monthly salary ranged between USD 75 to USD 150, for every 50 children.¹⁵

2. Legal framework

The Constitution of DRC states in Article 41 that: ‘The public powers have the obligation to assure protection to children in a difficult situation and to bring, to justice, the authors and their accomplices of acts of violence concerning children.’¹⁶

The Law No. 09/001 on the protection of the child mentions in Article 34 that: [informal translation] ‘A child whose parents, or one of whose parents, are absent, in detention, in exile, imprisoned, deported or dead, has the right to essential information on the whereabouts family members.’¹⁷

In the Chapter II on the Social protection of the child of the Law No. 09/001 on the protection of the child the following articles are included [informal translation]:

‘Article 62

The following shall be considered as being in a difficult situation and shall benefit from special protection in particular:

[...]

9. children without family or other support as a result of the loss of their parents;

[...]

⁹ Denmark, DIS, Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#), p. 19

¹⁰ Denmark, DIS, Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#), p. 45

¹¹ Denmark, DIS, Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#), p. 18

¹² Denmark, DIS, Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#), p. 1

¹³ Global Orphan Foundation, Our impact, n.d., [url](#)

¹⁴ Global Orphan Foundation, Foster Care vs. Orphanage Care in DRC: The importance of family, 14 February 2023, [url](#)

¹⁵ Global Orphan Foundation, Foster Care vs. Orphanage Care in DRC: The importance of family, 14 February 2023, [url](#)

¹⁶ DRC, Congo (Democratic Republic of the)'s Constitution of 2005 with Amendments through 2011, 2011, [url](#), Art. 41

¹⁷ DRC, Loi n° 09/001 du 10 janvier 2009 portant protection de l'enfant, 2009, [url](#), Article 34

12. orphaned children.
[...]

Article 63

Special protection is provided through state guardianship mechanisms as provided for by law, social placement and other appropriate care mechanisms.

Social placement is carried out by the social worker, taking into account the child's opinion according to his or her degree of maturity and age. The social worker reports immediately to the juvenile court judge, who approves the social placement.

If the child concerned is under the care of his or her parents or guardian, the decision of social placement is decided by the juvenile court judge at the request of the social worker.

A decree issued by the Minister in charge of social affairs under his or her competences regulates social placement, paying particular attention to the frequency of inspection and the minimum standards of care for children.

Article 64

Social placement takes place either in an extended family, a foster family or in a public or private institution with social character or in an independent home for accommodation in an independent house for accommodation, rehabilitation and social reintegration. In the latter case, the child must be at least fifteen years old.

Social placement in an institution is used as a last resort and lasts for a maximum of six months.¹⁸

Additional information about the implementation of the legal framework could not be found among the sources consulted by EUAA within the time constraints.

3. Availability of state protection

Information on orphaned children or children without support network in DRC was scarce among the sources consulted by EUAA within the time constraints. However, the following information may be relevant.

In September 2023 the US Department of Labor (USDOL) published the 2022 Findings on the Worst Forms of Child Labor report, which reported 'a lack of efforts to assist street children'.¹⁹ The report of the DIS published in October 2022 also noted in the section about Sexual and Gender-Based Violence that 'the social system for children and women's protection is scarce and state protection is limited'.²⁰

¹⁸ DRC, Loi n° 09/001 du 10 janvier 2009 portant protection de l'enfant, 2009, [url](#), Articles 62; 63; 64

¹⁹ USDOL, 2022 Findings on the Worst Forms of Child Labor, 26 September 2023, [url](#), p. 8

²⁰ Denmark, DIS, Socioeconomic conditions in Kinshasa, 7 October 2022, [url](#), p. 30

4. Access to support services

Information on access to support services for orphaned children or children without support network in DRC was scarce among the sources consulted by EUAA within the time constraints. However, the following information may be relevant.

The report on Children and armed conflict in the Democratic Republic of the Congo by the United Nations Security Council (UNSC), covering the period from 1 April 2020 to 31 March 2022, noted that UNICEF provided psychosocial assistance to '309,825 children affected by armed conflict and forced displacement, children in situations of family separation, and other vulnerable children from host communities'.²¹

²¹ UNSC, Children and armed conflict in the Democratic: Republic of the Congo, Report of the Secretary-General, 10 October 2022, [url](#), para. 71

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<https://www.vooafrique.com/a/rdc-le-nombre-d-enfants-orphelins-et-de-veuves-augmente-de-jour-en-jour/6919358.html>, accessed 1 February 2024

ADDITIONAL SOURCES CONSULTED

ACAPS; ACCORD – Austrian Centre for Country of Origin and Asylum Research and Documentation; Actualite.cd; Amnesty International (AI); Asylum Research Centre; DRC, Le Ministère du Genre, Famille et Enfants; ECOL.net; European External Action Service (EEAS); European Union – EUAA COI Portal; Global Orphan Foundation; Global Protection Cluster; Human Rights Watch; HumAngle; Humanitarian Alternatives; Le Monde; POURELLE.info; Radio France Internationale (RFI); Radio Okapi; Save the Children; Street Children; The New Humanitarian; United Nations – Office of the High Commissioner for Human Rights (OHCHR), United Nations High Commissioner for Refugees (UNHCR), Refworld; United States – Department of Defense, Department of State; Zoomeco